

REMARKS

Applicants have amended the claims herein to more clearly and definitely claim the same invention as set forth in pending Claims 20-24 of U.S. Patent Application No. 09/215,644 (hereinafter referred to as the '644 application), which is presently involved in Interference 105,062. Specifically, Applicants have added new Claims 55-60 and canceled Claims 1-54. New Claims 55-59 are directed to the same invention claimed in Claims 20-24 of the '644 application, using language identical or similar to language appearing, *ipsis verbis*, in the application as originally filed. New Claim 60 is directed to a subject matter distinct from that claimed in Claims 20-24 of the '644 application. Since the Patent Office has already recognized the interfering nature of the subject matter of the above-captioned application and Claims 20-24 of the '644 application, Applicants anticipate that the above-captioned application will be moved into Interference No. 105,062.

The new claims are fully supported by the disclosure of the instant application and its parent applications. Specifically, new Claim 55 is directed to an adenovirus vector comprising an adenovirus early gene essential for propagation under the control of a human prostate specific antigen promoter and a human prostate specific antigen enhancer, which is the same invention as defined by Claim 24 of the '644 application.

The instant application clearly teaches, at page 9, an adenovirus vector comprising an adenovirus early gene essential for propagation under the control of cell type-specific transcriptional regulatory elements (TREs). The instant application further teaches, on pages 29-30, the human PSA promoter and enhancer regions at about nt -540 to nt +8 and about nt -5322 to nt -3739, respectively, relative to the transcriptions start site of the human PSA gene. Similar support can also be found in col. 3, lines 3-9 and col. 4, lines 51-64 of U.S. Patent No. 5,698,443 (the '443 patent), which is issued from the parent Application No. 09/495,034 (the '034

application) of the instant application.

New Claim 56, which further defines Claim 55 by requiring a transgene, also finds support in the application. For example, the instant application teaches, on pages 5-7, that the transgene may be under the control of a transcriptional initiation region and expression of the encoded product results in the suppression of tumor growth. The application also teaches, on pages 40- 41, expression of transgene for various therapeutic proteins (see also, col. 3, lines 8-16 and col. 4, lines 19-22 of the '443 patent for further support).

New Claim 57 is directed to the same invention where the transgene is a therapeutic gene. The instant application, on page 22, defines a therapeutic gene as a gene whose expression in a cell is associated with a desirable result, such as tumor cell death. Further support may be found in the Abstract, in col. 2, lines 61-62, and from col. 5, line 63 to col. 6, line 10 of the '443 patent.

New Claim 58, specifying the early gene under the control of the human prostate specific antigen promoter and enhancer as E1A, E1B or E4, also finds support in the involved and ancestor applications. The instant application, on pages 23-24 and in the examples, teaches the regulatory control of adenovirus E1A, E1B, and E4 genes by the human PSA promoter and human PSA enhancer. Further support can be found in col. 3, lines 24-28 of the '443 patent.

New Claim 59 is directed to the same invention, specifying the adenovirus as a serotype 5 one. The instant application, on page 24 and in the examples, teaches the use, specifically, of the adenovirus serotype 5 (Ad5) genome. Further support can be found in col. 3, lines 17-22 of the '443 patent.

New Claim 60 is directed to a method for treating a patient with such adenovirus vectors. Further support can be found in the Abstract and at page 54, as well as in col. 2, lines 61-62 and col. 4, lines 39-44 of the '443 patent.

In view of the foregoing remarks, Applicants submit that the claims are supported by the above captioned application, and entry of the amendment is respectfully requested. Should the Examiner believe that anything further is required to clarify the issues, the Examiner is requested to contact Applicants' representative at the telephone number listed below.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Steven B. Kelber', is written over a horizontal line.

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